

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

DOUGLAS E. ROSENBERG, individually
and on behalf of all others similarly situated,

Plaintiff,

v.

LOANDEPOT.COM, LLC, and JOHN DOE
CORPORATION,

Defendants.

Case No. 1:19-cv-10661-NMG

LOANDEPOT.COM, LLC’S MOTION TO DISMISS

Defendant loanDepot.com, LLC (“LoanDepot”) respectfully moves pursuant to Federal Rule of Civil Procedure 12(b)(6) to dismiss Plaintiff’s Complaint for failure to state a claim on which relief can be granted. Plaintiff alleges that LoanDepot called his cellular telephone via an automated telephone dialing system to market its products and services without his prior express consent in violation of the Telephone Consumer Protection Act (“TCPA”). Plaintiff’s claims must, however, be dismissed because the TCPA is an unconstitutional, content-based restriction on speech and because the Complaint fails to state a claim on which relief can be granted.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), defendant LoanDepot.com LLC respectfully requests oral argument on this motion as it may be of assistance to the Court.

Dated: May 31, 2019

Respectfully submitted,
DEFENDANT
LOANDEPOT.COM, LLC
By its attorneys,

/s/ Paul R. Mastrocola

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LR 7.1(a)(2) CERTIFICATION

Pursuant to Local Rule 7.1, I certify that counsel for defendant LoanDepot.com, LLC conferred with counsel for plaintiff Douglas Rosenberg on this matter as set forth above, and plaintiff intends to oppose the motion and the relief sought.

/s/ Paul R. Mastrocola

Paul R. Mastrocola

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on May 31, 2019.

/s/ Paul R. Mastrocola

Paul R. Mastrocola

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